

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

BASF AGRO B.V., ARNHEM (NL),
WÄDENSWIL BRANCH, BAYER S.A.S.,
and MERIAL LIMITED,

Plaintiffs,

v.

CHEMINOVA, INC.,

Defendant.

Civ. Action No. 10-CV-274

**MOTION TO FILE DOCUMENTS
UNDER SEAL**

Defendant Cheminova, Inc. (hereinafter "Cheminova") hereby moves the Court to file under seal Cheminova, Inc.'s Supplemental Claim Construction Brief, along with excerpts of the depositions of Dr. Jeffrey Winkler, Dr. Michael Potter, and Dr. Mark McHugh, and the declaration of Dr. Jeffrey Winkler, filed with Cheminova's supplemental brief.

In support of this Motion, Cheminova states as follows:

The parties to this case entered into a Stipulated Protective Order ("the Protective Order") entered by the Court on August 27, 2010. (Docket No. 40.) Paragraph II.B.1 of the Protective Order defines "confidential information" as non-public information that involves the personal or privacy interests of individuals under the laws where such individuals reside. Paragraph II.B.2 of the Protective Order defines "highly confidential information" as confidential information whose disclosure would be likely to cause harm

to the competitive position of the producing party. Paragraphs VIII.2 and VIII.3 of the Protective Order states that a party may file documents under seal with the Court if it is necessary to submit confidential or highly confidential material.

Cheminova's Supplemental Claim Construction Brief includes discussion of declarations and deposition testimony that have been designated by the parties as either "confidential information" or "highly confidential information" under the protective order. Likewise, excerpts of the depositions of Dr. Jeffrey Winkler, Dr. Michael Potter, and Dr. Mark McHugh, and the declaration of Dr. Jeffrey Winkler, filed with Cheminova's supplemental brief, have themselves been designated by Plaintiffs and/or by Cheminova as "confidential" and/or "highly confidential" information. Accordingly, Cheminova hereby moves the Court under paragraphs VIII.2 and VIII.3 of the Protective Order to seal Cheminova, Inc.'s Supplemental Claim Construction Brief, along with excerpts of the depositions of Dr. Jeffrey Winkler, Dr. Michael Potter, and Dr. Mark McHugh, and the declaration of Dr. Jeffrey Winkler, filed with Cheminova's supplemental brief.

WHEREFORE, Defendants move this Court to file and retain under seal Cheminova, Inc.'s Supplemental Claim Construction Brief, along with excerpts of the depositions of Dr. Jeffrey Winkler, Dr. Michael Potter, and Dr. Mark McHugh, and the declaration of Dr. Jeffrey Winkler, filed with Cheminova's supplemental brief.

Respectfully submitted this 10th day of June, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

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